

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STANLEY MARCUS GALYEAN,

Plaintiff,

v.

ONE WEST FSB,

Defendant.

CASE NO. C10-827 MJP

ORDER DENYING PLAINTIFF'S
MOTION TO REOPEN CASE

THIS MATTER comes before the Court on Plaintiff Stanley Marcus Galyean's motion to reopen his suit against Defendant One West FSB. (Dkt. No. 48.) Having reviewed the motion and the related record, the Court hereby DENIES the motion.

Background

Plaintiff commenced this suit on May 18, 2010 asserting the following claims against Defendant: (1) breach of fiduciary duty; (2) negligence; (3) common law fraud by agency; (4) breach of the implied covenant of good faith and fair dealing; (5) violations of the Truth in Lending Act, ("TILA"), 15 U.S.C. §1601; and (6) intentional infliction of emotional distress. (Dkt. No. 1-3 at 28-32.) On December 9, 2010, the Court granted Defendant's motion to dismiss

and dismissed all of Plaintiff's claims. (Dkt. No. 44 at 7.) The Court dismissed Plaintiff's TILA claim for two reasons: (1) Plaintiff alleged no facts that showed it was plausible that Defendant was a proper party to the action; and (2) Plaintiff failed to allege that he could or would tender back borrowed funds to the lender. (Id. at 4-7.) Plaintiff now moves to reopen his case under Federal Rule of Civil Procedure 60(b)(5)–(6), on the grounds that a recent Supreme Court opinion changed the law relevant to his TILA claim. (Dkt. No. 48.)

Discussion

I. Motion to Reopen

A. Legal Standard

Federal Rule of Civil Procedure 60 allows a party to move for relief from a final judgment, order or proceeding for several reasons, such as: (1) if applying the judgment prospectively is no longer equitable; or (2) any other reason that justifies relief. Fed. R. Civ. P. 60(b)(5)–(6). Relief requested under the catchall provision, Fed. R. Civ. P. 60(b)(6), is reserved for extraordinary circumstances. Ashford v. Steuart, 657 F.2d 1053, 1055 (9th Cir. 1981).

B. Plaintiff's Motion

Plaintiff argues the Supreme Court's opinion in Jesinoski v. Countrywide Home Loans, Inc., 135 S.Ct. 790 (2015) clarifies that Plaintiff was not required to plead ability to tender in order to state a claim under TILA. (Dkt. No. 48 at 1–3.) However, even if the law relevant to Plaintiff's TILA claim has changed, the Court's dismissal of Plaintiff's complaint, and all claims therein including Plaintiff's TILA claim, would still be proper. The Court dismissed Plaintiff's complaint for the independent reason that Plaintiff failed to allege facts that showed it was plausible that Defendant was a proper party to the suit. (Dkt. No. 44 at 4.) Plaintiff does not

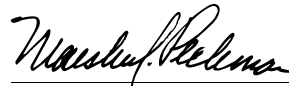
1 show this finding was in error and, therefore, fails to show there are grounds to reopen his case
2 under Fed. R. Civ. P. 60(b)(5)–(6).

3 **Conclusion**

4 Because Plaintiff fails to show there are grounds to reopen his case under Fed. R. Civ. P.
5 60(b)(5)–(6), the Court DENIES Plaintiff's motion.

6 The clerk is ordered to provide copies of this order to all counsel.

7 Dated this 13th day of April, 2015.

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10 Marsha J. Pechman
11 United States District Judge
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